

Message Text

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PAGE 01 STATE 161262

21

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DRAFTED BY: EB/OT/STA:BBISHOP, JR.

APPROVED BY: EB/OT/STA:BBISHOP, JR.

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FM SECSTATE WASHDC

TO AMEMBASSY TOKYO

LIMITED OFFICIAL USE STATE 161262

FOLLOWING REPEAT STATE 161262 SENT SEOUL DATED JULY 9.

QUOTE

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E.O. 11652: N/A

TAGS: ETRD, KS

SUBJECT: COUNTERVAILING DUTIES -- FOOTWEAR

REFS: (A) SEOUL 4816; (B) STATE 158362

PARA. 1 OF REF (B) INDICATES THAT THE DECISION AS TO WHAT CONSTITUTES A DE MINIMIS SUBSIDY IS "AN ADMINISTRATIVE DECISION BASED ON FACTS OF INDIVIDUAL CASES IN PRECEDENCE". BY WAY OF CLARIFICATION, IT SHOULD BE EMPHASIZED THAT THE MAXIM DE MINIMIS NON CURAT LEX PERMITS A LEGAL JUDGEMENT THAT THE AMOUNT OF THE BOUNTY OR GRANT IS SO SMALL THAT IT COULD NOT CONCEIVABLY HAVE ANY IMPACT WHATEVER ON THE EXPORTS OF THE MERCHANDISE IN QUESTION. THE DE MINIMIS MAXIM IS A LEGAL CONCEPT WELL INGRAINED IN U.S. LAW GENERALLY AND SUBJECT TO INTERPRETATION BY THE U.S. COURTS. AS INDICATED REF (B), TREASURY DETERMINED THAT THE BOUNTIES

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IN KOREAN FOOTWEAR CASE WERE QUITE SMALL (LESS THAN 1 PER-

CENT IN ALL CASES) BUT THAT THEIR AMOUNTS DID NOT APPROACH
THE DE MINIMIS RANGE. INGERSOLL UNQUOTE INGERSOLL

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Message Attributes

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